

PROSECUTOR ROBERT M. VISBAL, COMPLAINANT, VS. JUDGE WENCESLAO B. VANILLA, MTCC – BR. 2, TACLOBAN CITY, RESPONDENT.

A.M. No. MTJ-06-1651 (Formerly OCA IPI No. 04-1576-MTJ). April 07, 2009

Ponente: BRION, J.

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BRION, J.:

For resolution is the present administrative matter involving Prosecutor Robert M. Visbal (complainant) of Tacloban City and Judge Wenceslao B. Vanilla (respondent) of the Municipal Trial Court in Cities (MTCC), Branch 2, Tacloban City.

The Factual Background

The case arose from the letter the complainant sent to then Court Administrator Presbitero J. Velasco, Jr., charging the respondent with grave misconduct and gross ignorance of the law for ordering Criminal Case No. 2000-08-OD-01 (entitled "People of the Philippines v. Rodelio Abayon y Benter," herein referred to as "criminal case") archived.[1] The complainant in this criminal case is with the Leyte Provincial Prosecution Office.

The complainant alleged that at the time the respondent judge ordered the criminal case archived, the witnesses for the Prosecution were able, ready, and willing to testify, with due notice to the accused after he had been arraigned.[2] The first witness, the complainant himself, had already testified.[3] He maintained that the respondent's act seriously violated Paragraph 2, Sections 14 and 16 Article III of the Constitution and Section 2, Rule 119 of the Revised Rules on Criminal Procedure. Attached to the complaint were: (1) Order of Arraignment dated January 28, 2003 setting the case for pre-trial on April 3, 2003;[4] (2) Certificate of Arraignment;[5] (3) Transcript of stenographic notes (TSN);[6] and (4) Order dated October 9, 2003 to archive the case.

The Office of the Court Administrator (OCA) referred the complaint to the respondent and required him to comment on the complaint within ten (10) days from receipt of the indorsement.[7]

The respondent submitted his comment by way of a letter dated June 19, 2004.[8] He explained that: in an order dated June 23, 2003,[9] the court reset the hearing to August 27, 2003 on motion of the public prosecutor because of the absence of the second witness and of the accused himself; at the hearing on August 27, 2003, the return of the subpoena served on the accused showed that he had not been properly notified; the prosecution did not present another witness or inform the court of its desire to summon other witnesses; upon motion of the prosecution, the case was reset to October 9, 2003 and another subpoena was sent to the accused;[10] at the hearing on October 9, 2003, the return of the subpoena indicated that the accused changed address without informing the court; this time the court issued a warrant for the arrest of the accused for his failure to appear; thus, "there was no setting of the hearing in the meantime, for it was not known when the accused would be arrested and, for practical purposes, he ordered that the case be archived to be revived upon the arrest of the accused." [11]

In a Resolution dated August 9, 2006, we required the parties to manifest, within 10 days from notice, if they were willing to submit the present administrative matter for resolution based on the pleadings. The complainant complied with a manifestation dated September 13, 2006. The respondent, on his part, explained on May 31, 2007, that he failed to comply because he did not receive a copy of the August 9, 2006 Resolution of the Court. The explanation was prompted by a subsequent Resolution from the Court dated March 21, 2007, directing the respondent to show cause why he should not be held in contempt of court for his failure to comply with the Resolution of August 9, 2006.

The OCA Report and Recommendation

In a memorandum dated May 8, 2006, the OCA submitted its report/recommendation on the present administrative matter. The salient portion of the report/recommendation states:[12]

Respondent's order archiving the case is patently erroneous. Administrative Circular No. 7-A-92 provides that a criminal case can be archived if after the issuance of the warrant of arrest, the accused remains at large for six (6) months from delivery of the warrant to the proper peace officer. However, the court may *motu proprio* or upon motion of any party, archive a criminal case when proceedings therein are ordered suspended for an indefinite period because of the following reasons:

- the accused appears to be suffering from an unsound mental condition which effectively renders him unable to fully understand the charge against him and to plead intelligently, or to undergo trial, and he has to be committed to a mental hospital;
- a valid prejudicial question in a civil action is invoked during the pendency of the criminal case unless the civil and criminal cases are consolidated;
- an interlocutory order or incident in the criminal case is elevated to and is pending resolution/decision for an indefinite period before a higher court which has issued a temporary restraining or a writ of preliminary injunction; and
- when the accused has jumped bail before arraignment and cannot be arrested by his bondsman.

The Order of October 9, 2003 directing the case to be archived was issued on the same day respondent ordered the issuance of the warrant of arrest in violation of the 6-month period required under the Circular. Neither does the case fall under the circumstances where the court may archive the case *motu proprio*.

Respondent should have proceeded with the trial pursuant to Article III, Section 14 (2) of the Constitution which authorizes trials in absentia provided the following requisites are present: (a) that accused has been arraigned; (b) that he has been notified; and (c) that his failure to appear is unjustified.

All the requisites are present in the case. Accused was arraigned on January 28, 2003. He is deemed to have received notice of the hearings considering that he has not notified the court of a change in address. The inability of the court to notify him did not prevent it from continuing with the trial because accused has waived his right to present evidence and to confront and cross-examine the witnesses who testify against him. (*People vs. Salas*, 143 SCRA 163, 167, *People vs. Nazareno*, 160 SCRA 1, 6-7). Thus, the Supreme Court in *People vs. Tabag* emphatically ruled:

x x x It is obvious that the trial court forgot our rulings in *Salas* and *Nazareno*. We thus take this opportunity to admonish trial judges to abandon any cavalier stance against accused who escaped after arraignment, thereby allowing the latter to make a mockery of our laws and the judicial process. Judges must always keep in mind *Salas* and *Nazareno* and apply without hesitation the principles therein laid down, otherwise they would court disciplinary action.

In fine, respondent violated basic law and procedure. Not to know it or to act as if he does not know it constitutes

gross ignorance of the law which is punishable by a fine or suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or a fine of more than P20,000.00 but not exceeding P40,000.00. Considering that this is the first offense of respondent, a fine of P21,000.00 is commensurate.

We agree with the OCA's findings that respondent judge showed gross ignorance of the law when he archived Criminal Case No. 2000-08-00-01 immediately after the warrant of arrest was issued against the accused. He violated Administrative Circular No. 7-A-92, which allows the archiving of a criminal case if, after the issuance of the warrant of arrest, the accused remains at large for six (6) months from delivery of the warrant to the proper peace officer. Everyone, especially a judge, is presumed to know the law; when the law is sufficiently basic or elementary, not to be aware of it constitutes gross ignorance of the law.[13] However, for full liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only found to be erroneous; more importantly, it must be established that he was motivated by bad faith, dishonesty, hatred or some other similar motive.[14]

Under Canon 1.01 of the Code of Judicial Conduct, a judge must be "the embodiment of competence, integrity and independence." A judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules; it is imperative that he be conversant with basic legal principles and be aware of well-settled authoritative doctrines. [15] He owes to the public and to this Court the duty to be proficient in the law. He is expected to keep abreast of laws and prevailing jurisprudence. Judges must not only render just, correct, and impartial decisions, resolutions, and orders, but must do so in a manner free of any suspicion as to their fairness, impartiality, and integrity, for good judges are men who have mastery of the principles of law and who discharge their duties in accordance with law.[16]

Under Section 8 of A.M. No. 01-8-10-SC amending Rule 140 of the Rules of Court on the Discipline of Justices and Judges, which took effect on October 1, 2001, gross ignorance of the law is classified as a serious charge punishable by either dismissal from service, suspension of more than one year or a fine of more than P20,000.00 but not exceeding P40,000.00. In this case, considering that no malice or bad faith has been established and that this is the respondent judge's first administrative offense, we deem it just and reasonable to impose upon him a fine of P10,000.00.

WHEREFORE, premises considered, we hereby FINE Judge WENCESLAO B. VANILLA, MTCC, Branch 2, Tacloban City, TEN THOUSAND PESOS (P10,000.00), with the STERN WARNING that the commission of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Dated April 1, 2004, rollo, pp. 1-3.

[2] Id., p. 4; Annex "A," Complaint.

[3] Id., pp. 7-8; Annex "C-1." (TSN), Complaint.

[4] Id., p. 4; Annex "A," Complaint.

[5] Id., p. 5; Annex "B," Complaint.

[6] Id., p. 6; Annex "C," Complaint.

[7] Id., p. 24; 1[st] Indorsement dated May 25, 2004.

[8] Id., pp. 25-27.

[9] Id., p. 28; respondent's Letter/Comment, Annex "1."

[10] Id., p. 29; respondent's Letter/Comment, Annex "2."

[11] Id., par. 2.

[12] Id., pp. 37-40.

[13] Bellena v. Perello, A.M. No. RTJ-04-1846, January 31, 2005, 450 SCRA 122; Ruiz v. Beldia, Jr., A.M. RTJ-02-1731, Feb. 16, 2005, 451 SCRA 402.

[14] Tan v. Adre, A.M. No. RTJ-05-1898, January 31, 2005, 450 SCRA 145; Sesbreño v. Aglugub, A.M. MTJ-05-1581, Feb. 28, 2005, 452 SCRA 365.

[15] Ruiz v. Beldia, supra note 2.

[16] Coronado v. Judge Eddie R. Roxas, et al. and Capisin v. Judge R. Roxas, et al., A.M. No. RTJ-07-2047 and A.M. No. RTJ-07-2048, July 3, 2007, 526 SCRA 280.

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